

**TENNESSEE DEPARTMENT OF EDUCATION
OFFICE OF FEDERAL PROGRAMS**

**PROVIDER STATUS AND PROCEDURES FOR SUSPENSION OF SES
SERVICES OR REVOCATION OF PROVIDER APPROVAL
(Adopted May 17, 2007)**

The State Education Agency is required to monitor the quality and effectiveness of state-approved Supplemental Educational Service (SES) providers in accordance with Public Law 107-110 Section 1116(e)(4)(D) of Title I Part A of No Child Left Behind and corresponding regulation 200.47(a)(4)(ii). The Tennessee Department of Education, Office of Federal Programs, has developed the following procedures for suspending or removing SES providers from the state-approved list. Section I of this document addresses circumstances when it is necessary to automatically remove an SES provider from the state-approved list when there is no remedy. Section II of this document addresses immediate suspension of tutoring services when automatic removal is not warranted but provider must take action immediately to avoid future removal. Section III addresses provider status and corrective action that will require evidence of improvement that may require time for documentation that extends beyond the current school year. Section IV addresses the appeal process that may be followed when a provider is removed from the State-approved SES provider list.

SECTION I: AUTOMATIC REMOVAL

A provider shall be subject to immediate removal from the State's list of approved supplemental educational service providers if one or more of the following situations occur. The provider

- Is charged with a felony as evidenced by court records;
- Is a school or school district that is identified during the same school year as being in need of improvement;
- Failed to protect the identities of students eligible for or receiving SES;
- Failed to perform criminal background checks on employees prior to them coming in contact with students;
- Submitted false records/information to the State or to the local school system;
- Repeatedly failed to comply with assurances in the provider's SES application;
- Failed to meet the requirements, within the 60-day allotted period, for the noncompliance monitoring issues of the Compliance Action Plan Agreement;
- Failed to show improvement for all conditions during Probation status; and/or,
- Must be removed to protect the safety and security of students and staff as determined by the State Department of Education.

Remedy Requirement: A provider and the principals of the provider entity, removed from the State-approved provider list for one or more of the conditions listed above, shall not be eligible to resubmit an SES application, except for a school or school district that previously had been identified in High Priority status that is no longer in High Priority status. The school or school system is eligible to become an SES provider by submitting an application in the next application window. If the school or school district had been an approved SES provider, it may regain active

status by submitting a request in writing to the SES Program Coordinator, Office of Federal Programs, along with an updated application or a Form for Application Changes for the State's review. The Tennessee Department of Education, Office of Federal Programs, will respond to the request in no more than 30 days.

A provider may appeal its removal from the State-approved list by following the directions in *Section IV Appeals Process* of this document.

Note: Separate status determinations could be made for each subject tutored. Thus, it is possible that a provider offering tutoring in both reading and mathematics could be classified as Good Standing in one subject but Removal in the other.

SECTION II: IMMEDIATE SUSPENSION

A provider shall be subject to immediate suspension of tutoring services for the current year if the provider fails to:

- Comply with provisions of the LEA/Provider agreement;
- Establish academic achievement goals, measures for student progress, and a timetable for each student served by the provider;
- Provide student progress information to the parents and appropriate school staff of the students receiving SES;
- Comply with applicable federal, state, and local health and safety requirements;
- Maintain a minimum of \$100,000 liability insurance;
- Submit requested data and reporting requests by the State, including SES data requested from the LEA and the University of Memphis Center for Research in Educational Policy, which is the contractor that evaluates the effectiveness of supplemental educational services in Tennessee;
- Accept students, within a reasonable time, whose parents have selected the provider for tutoring services, except when the total number of students requesting services does not meet the minimum stated in the SES provider's application (i.e., the minimum stated in the SES provider's application was 10 students and only 5 student requested the SES provider's services) or when additional students would cause the SES provider to exceed its capacity (i.e., additional students would cause the SES provider to exceed the maximum stated in the SES provider application or to exceed the number of students the SES provider's site reasonable and safely accommodates);
- Provide effective tutoring consistent with the methodology and program design presented in the provider's approved SES application;
- Provide regular tutoring on a schedule communicated to the parents and school personnel; and/or,
- Provide adequate supervision of provider's students until students are released from provider's custody.

Remedy Requirement: The provider may appeal the suspension (see Section IV of this document) by submitting a plan with timeline for approval by the Charter School and Choice Office for correcting any compliance violations. After the provider's plan is approved and the provider has met all requirements in the plan within the specified timeline, the suspension will be revoked and the provider will return to its status prior to the suspension. However, if the provider's plan is

not approved or if the provider's plan is approved but requirements are not met within the specified timeline, the provider automatically will be removed from the State-approved list of SES providers and shall not be eligible to reapply.

SECTION III: PROVIDE STATUS AND CORRECTIVE ACTION REQUIREMENTS

It is the intent of the Office of Federal Programs to work with providers, when possible, to provide technical assistance for improvement if survey results, provider evaluation, and/or monitoring indicate less-than-desirable outcomes. Results of monitoring for compliance, analyses of student data to determine provider effectiveness, and analyses of parent and school staff survey to determine satisfaction with implementation of SES tutoring will be used to categorize each provider's status as follows:

Full Standing

The provider has demonstrated positive achievement effects, has shown acceptable or above standards implementation outcomes (customer satisfaction and service delivery) and a "closed" or "closed with recommendations" monitoring status, and is approved without reservations to continue services in the upcoming year.

Satisfactory Standing

The provider has demonstrated "indeterminate" achievement effects due to insufficient data or equivocal effect sizes, but has shown acceptable or positive implementation outcomes (customer satisfaction, service delivery, compliance.)

OR

The provider has demonstrated positive achievement effects but has minor compliance violations in which compliance was achieved within the allotted two-week period following the monitoring visit.

Remedy Requirement: Submit improvement plan for improving student achievement where lack of positive evidence is due to equivocal outcomes (neither sufficiently positive nor negative effect sizes) *not* to insufficient sample size OR for avoiding future noncompliance violations that were identified in the previous monitoring visit.

Probation I

The provider has demonstrated one or more of the following:

- "Marginal" or "Negative" achievement effects;
- Less than "Acceptable" implementation outcomes; and/or,
- Noncompliance findings in the monitoring visit that required a Compliance Action Plan agreement.

Remedy Requirement: Probation I status begins immediately during the current year. The provider shall submit an improvement plan with timeline for improving implementation quality, avoiding future compliance violations related to those specified in the Compliance Action Plan,

and improving student achievement where lack of positive evidence is due to equivocal outcomes (neither sufficiently positive or negative effect sizes) *not* to insufficient sample size. Compliance violations shall be addressed within the timeline of the Compliance Action Plan. The provider's status for the following year will become "Probation II" if

- The provider's achievement effects are not at least "Acceptable" for the following school year;
- A Compliance Action Plan is required for compliance during the monitoring visit in the following year; and/or,
- The provider's implementation quality is less than acceptable.

Probation II

The provider has demonstrated one or more of the following:

- "Marginal" or "Negative" achievement effects for more than one consecutive year;
- Less than "Acceptable" implementation outcomes for more than one consecutive year;
- Noncompliance findings in the monitoring visits for more than one consecutive year;

Remedy Requirement: Failure to achieve improvement for the current school year will result in automatic removal (see Section I).

SECTION IV: APPEALS PROCESS

A process has been established for supplemental educational services (SES) provider applicants and current state-approved providers to appeal a denial, suspension or revocation of state approval. If a state-approved SES provider believes that suspension or revocation of state approval as a SES provider and thereafter removal from the state list of state-approved providers is unwarranted or if a SES applicant believes that denial of his or her application is unwarranted, the following procedure may be used by the provider to appeal the state's decision.

When must appeals be filed?

All appeals shall be filed in writing with the Department of Education within 10 calendar days of an individual receiving written notice from the Department of Education of denial of an application or suspension or revocation of state-approved status. Only appeals filed timely shall be considered by the Department of Education. Appeals shall be considered received by the Department on the date they are post-marked.

What must be included in all appeals?

To be considered, appeals shall be in writing, be signed by the individual appealing and shall include the following information:

- A clear statement of the allegation(s) and reasons for believing the Department's decision was not proper or was not in accordance with state regulations, policies, or procedures;
- A summary of the facts upon which the allegation(s) is based;
- Any documentation supporting the allegation(s);

- Contact information, including name of individual filing the appeal, name of the organization, mailing address, telephone number(s), and email address.

What is the Department's procedure for considering appeals?

There are two separate appeal procedures set forth below as Type #1 and Type #2. Once the type of appeal has been determined, the course of action taken shall follow the appropriate procedure as set forth below:

Type #1 Appeals of the State's decision to deny initial approval of a SES application and refuse to place the provider on the State-approved SES provider list:

These appeals shall be reviewed by a committee of three State program practitioners, with expertise in Title I, Part A, who will make a recommendation to the Assistant Commissioner of Teaching and Learning. The decision made by the Assistant Commissioner of Teaching and Learning shall be final.

Type #2 Appeals of the State's decision to revoke the approval of a SES provider and remove them from the State-approved provider list

These appeals shall be reviewed by the Assistant Commissioner of Teaching and Learning whose decision shall be final.

How must written appeals be submitted?

All appeals must be submitted in writing to:

Director of Charter Schools & Choice
Tennessee Department of Education
Andrew Johnson Tower, 5th Floor
710 James Robertson Parkway
Nashville, TN 37243-0376

What is the Department's timeframe for considering and communicating appeal decisions?

Individuals appealing shall receive written responses of final decisions of the Department within 30 calendar days of the date an appeal is received. The response shall be one of the following:

- Affirm the original decision (deny the appeal)
- Ask for more information (continue the review)
- Overturn the original decision (approve the appeal; State takes corrective action)

If the original decision is overturned and corrective action is taken, the Department will communicate to the SES applicant/provider the corrective action to be taken and the timeline for completion.